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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
09/975,954	10/15/2001	Pierre Colombet	C98-01382	9671	
466	7590 04/02/2004		EXAM	INER	
YOUNG & THOMPSON			MARCANTO	MARCANTONI, PAUL D	
745 SOUTH 2 ARLINGTON	3RD STREET 2ND FLO , VA 22202	OOR	ART UNIT	PAPER NUMBER	
	,		1755		

DATE MAILED: 04/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Application No.			A-				
Examiner		Application No.	Applicant(s)				
Paul Marcantoni 1755  - The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE £ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  Extensions of size may be available under the provisions of 37 CFR 1.30(a) in no event, however, may a reply be timely filed after SN (6) MONTHS from the making date of this communication.  If the period to reply specified loove is lass than they (30) each, a reply within the elastory minimum of this (70)-(a)s and the consoluted timely.  If the period to reply specified loove is lass than they (30) each a reply within the elastory minimum of this (70)-(a)s and the consoluted timely.  If the period to reply within the series of elected period for engly with provided and the section of the communication.  Failure to reply within the series of elected period for engly with provided and the section of the communication.  Failure to reply within the series of elected period for engly with provided and the section of the communication.  Failure to reply within the series of elected period for engly within the elastory minimum of this (70)-(a)s and english of the communication.  Failure to reply within the series of elected period for engly with provided and the section of the communication.  Failure to reply within the series of elected the section of the english of the communication.  Status  1)		09/975,954 COLOMBET ET AL.					
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A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MALING DATE OF THIS COMMUNICATION.  - Extensions of time may be available under the provisions of 37 CFR 1.136(a).  - If the parted for reply spacefled stores is best literal thely (90) days, a reply within the statutory minimum of thirty (20) days will be considered broady.  - If the parted for reply spacefled stores is best literal thely (90) days, a reply within the statutory minimum of thirty (20) days will be considered broady.  - If the parted for reply spacefled stores is best literal thely (90) days, a reply within the statutory minimum of thirty (20) days will be considered broady.  - If the parted for reply within the set or standance period for reply will, by a days and will explice SIX (8) MONTHS from the enabling date of this communication.  - Failtan to reply within the set is restandance period for reply will, by a days and such as the statutory minimum of thirty (30) days will be considered broady.  - Failtan to reply within the set is constitution.  - Failtan to reply within the set is constituted, cause the application to second stream.  - Failtan to reply within the set is constituted, cause the application is produced any carried probability of the second stream through the second stream in the second stream in the probability of the second stream in the sec		Paul Marcantoni	1755				
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Paper No(s)/Mail Date \_\_\_\_\_. U.S. Patent and Trademark Office PTOL-326 (Rev. 1-04)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)

Attachment(s)

Application/Control Number: 09/975,954

Art Unit: 1755

Applicant's arguments filed 2/19/04 are acknowledged. However, the original examiner's (Mr. Poe) restriction was in error. He should have properly made a three way restriction instead of a two way restriction from the method of making, cement composition, and self leveling casting. Nevertheless, the present examiner has reissued a restriction to rectify this error for the proper reasons below:

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- Claims 1-14, drawn to a cement composition, classified in class 106, subclass 713+.
- II. Claims 17-19, drawn to a self leveling casting, classified in class 428, subclass 219.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as mutually exclusive species in an intermediate-final product relationship. Distinctness is proven for claims in this relationship if the intermediate product is useful to make other than the final product (MPEP § 806.04(b), 3rd paragraph), and the species are patentably distinct (MPEP § 806.04(h)). In the instant case, the intermediate product is deemed to be useful as for a multitude of different uses for cement compositions such as a walkway, a matrix material for encapsulating radioactive/hazardous waste, building blocks, reinforcement material for holding or supporting fence posts, coating material, etc. and the inventions are deemed patentably distinct since there is nothing on this record to show them to be obvious variants. Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record

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showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions anticipated by the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification and search, restriction for examination purposes as indicated is proper.

A telephone call was made to Mr. Castel on 3/31/04 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Marcantoni whose telephone number is 571-272-1373. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Bell, can be reached on 571-272-1363. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

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you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

Paul Marcantoni Primary Examiner Art Unit 1755